

LUTHER STANLEY,)
)
Plaintiff,)
)
vs.) Case No. 4:10CV1505 HEA
)
COTTRELL, INC.,)
)
Defendant.)

This matter is before the Court on the following motions: Defendant’s Motion in Limine to Limit or Exclude Other Incidents, [Doc. No. 136], Defendant’s Motion in Limine to Exclude Punitive Damages, [Doc. No. 137], Defendant’s Consolidated Motions in Limine, [Doc. No. 138], Defendant’s Motion in Limine to Bar Reference to Various “Litigation Reports,” [Doc. No. 139], Plaintiff’s Motion in Limine, [Doc. No. 140], and Defendant’s Motion to Disqualify Counsel Brian Wendler and to Bar Expert Micklow, and for other Sanctions, [Doc. No. 154]. A hearing on these motions was held on February 5, 2013. The Court makes the following rulings:

Defendant’s Motion in Limine to Limit or Exclude Other Incidents, [Doc. No. 136]. The Motion is granted except to the extent that if the incident has a factual similarity in nextus between the incident to support notice. Post incident

occurrences will be allowed for the purpose of notice, but will be limited in time and number.

Defendant's Motion in Limine to Exclude Punitive Damages, [Doc. No. 137] is denied; Defendant's alternative motion to bifurcate is granted.

Defendant's Consolidated Motions in Limine, [Doc. No. 138]: The parties are to discuss the issues raised in this motion and advise the Court of any remaining matters at issue.

Defendant's Motion in Limine to Bar Reference to Various "Litigation Reports," [Doc. No. 139]: This matter will be taken with the case. If the Litigation Reports are allowed, they will be admitted in a very limited fashion.

Plaintiff's Motion in Limine, [Doc. No. 140]: The parties have agreed to the following items: 1, 6, 15, 17, and 19.

Item 2: granted

Item 3: Defendant is prohibited from presenting evidence or arguing Plaintiff's weight, girth, or size.

Item 4: agreed by the parties.

Item 5: Granted to the extent that Defendant attempts to use medical evidence that is not relevant or otherwise related to the injury sustained by Plaintiff.

Item 7: Granted

Item 8: Granted except to the extent of warnings, etc. provided to Plaintiff.

Item 9: Granted except to consumption of alcohol by Plaintiff on or contemporaneously with the occurrence of the injury.

Item 10: Granted.

Item 11: To be taken with the case at trial.

Item 12: Granted.

Item 13: Denied.

Item 14: Denied.

Item 16: Granted, subject to appropriate evidence at trial

Item 18: Granted.

Item 20: Agreed by the parties.

Item 21: Denied.

Item 22: Moot.

Item 23: Moot, in light of the Ruling on item 21.

Dated this 6th day of February, 2013.

A handwritten signature in black ink, reading "Henry Edward Autrey", with a long horizontal flourish extending to the right.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE